

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.10590 of 1998

Dated: 20-04-2007

Between:

K. Malkaiah, s/o Gopaiah,
r/o Bhoodan pochampally village and Mandal,
Nalgonda District.

... Petitioner

and

1. The Andhra Pradesh State Electricity Board,
rep. by its Chairman, Vidyut Soudha,
Somajiguda, Hyderabad and 3 others.

... Respondents

ORDER:

M/s. Annadata Industries, situated at Nelapatla village, Choutuppal Mandal has become sick unit and in realization of the amounts due to State Financial Corporation, Nalgonda branch an auction was conducted under Section 29 of the State Financial Corporations Act, 1951 and the petitioner has become the auction purchaser and thus he is the absolute owner of the said industry.

However, it appears that the original owner of the said industry was in arrears to a tune of Rs.46,654/- to the respondent State Electricity Board and in that connection, the respondents Board issued a notice directing petitioner to pay the said arrears. At that juncture, he approached this Court and filed the present writ petition seeking a *mandamus* to declare the action of respondents 1 to 3 in demanding a sum of Rs.46,654/-, which is payable by M/s. Annadata Industries, Nelapatla village, from him, as highly illegal and arbitrary.

2. Heard learned counsel for the parties.

3. This point is squarely covered by a judgment of the Apex Court in **M/s. ISHA MARBLES v. BIHAR STATE ELECTRICITY BOARD**^[1]. Following the above judgment, this Court is of the view that demanding a sum of Rs.46,654/-, which is payable by M/s. Annadata Industries, Nelapatla village, from petitioner, by respondents is illegal.

4. As there was a threat of disconnection of power supply, it appears petitioner paid a sum of Rs.16,654/- towards the first instalment and by virtue of the interim orders passed by this Court, the other instalments were not paid by him. Subsequent to the payment of the said Rs.16,654/- only the power connection was restored. Since the action of respondents demanding petitioner to pay the arrears payable by M/s. Annadata Industries is illegal, the respondent Board is hereby directed to refund the said amount of Rs.16,654/- to petitioner or adjust the said amount in the electricity bills to be paid by petitioner. However, it made clear that it is always open to the respondent Board to proceed against the original owners of M/s. Annadata Industries.

5. Accordingly, the writ petition is allowed. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.20-04-2007
GLV

[\[1\]](#) (1995) 2 SCC 648